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TUESDAY, JANUARY 21, 2003
RULE PROPOSAL

HEALTH AND SENIOR SERVICES
DIVISION OF HEALTH CARE SYSTEMS ANALYSIS
PHYSICIAN CREDENTIALING APPLICATION

Proposed New Rules: N.J.A.C. 8:38C

Authorized By: Clifton R. Lacy, M.D., Commissioner, Department of Health and Senior Services.

Authority: N.J.S.A. 26:2S-7.1 through 7.3.

Calendar Reference: See Summary below for explanation of exception to the rulemaking calendar requirement.

Proposal Number: PRN 2003-37.

Submit written comments by March 22, 2003 to:

Paula Howard, Regulatory Officer
Office of Managed Care
Department of Health and Senior Services
PO Box 360
Trenton, NJ 08625-0360
Fax: 609-633-0807

The agency proposal follows:

Summary

In accordance with P.L. 2001, c.88, signed into law on May 10, 2001 (as codified, N.J.S.A. 26:2S-7.1 through 7.3), the Commissioner of the Department of Health and Senior Services ("Department") is authorized to establish a universal physician application form and a form for renewal of credentialing. The law mandates carriers which offer managed care plans to accept the form developed by the Commissioner for credentialing physicians seeking to participate in the provider's network. The law also requires the Commissioner to design a form for renewal of credentialing, which is to be an abbreviated version of the universal physician application form.

As required by the statute, the Department worked with a committee in developing the universal physician application form and renewal form. The committee included a representative from the New Jersey Hospital Association (NJHA), the Medical Society of New Jersey (MSNJ), the New Jersey Association of Health Plans (NJAHF) and the Health Insurance Association of America (HIAA).

The committee also included representatives from the Department of Banking and Insurance and the Division of Medical Assistance and Health Services of the Department of Human Services. In addition, several of the committee members requested input from among their constituencies. The committee reviewed the application/credentialing forms used by several carriers as well as that endorsed by the American Association of Health Plans and the NJAHF.

After some discussion, the committee decided to focus on the work of the Coalition for Affordable Quality Health Care (CAQH), which has developed an electronic application form for the specific purpose of entering the information supplied through the form into a database that can be accessed by both physicians and carriers through the internet and other means. The statute specifically mandates the use of national standards when such exist. The CAQH is a coalition of 26 national and regional carriers and other managed care organizations and three principal trade associations. One of its goals is to help streamline the credentialing process (referred to by the CAQH as "single source credentialing"), thereby reducing the administrative burdens and the associated costs for all parties involved with credentialing. The CAQH states that it has incorporated accreditation and regulatory credentialing standards in its work, including those of the National Committee on Quality Assurance (which surveys and accredits a large percentage of all managed care organizations), and that it has agreed on a common set of required data elements. In addition, the CAQH states that it has incorporated other elements of State-adopted application forms, where appropriate, in an effort to make the use of the CAQH database a viable option for all health care providers and carriers nationwide.

In accordance with the statutes, the Department is required to develop a form that carriers must accept for purposes of physician credentialing. The Department and the committee believe that the CAQH electronic application form satisfies this purpose. The Department recognizes the value to physicians and carriers of using a common, confidential database. While using a standard paper application form certainly reduces administrative burdens for physicians significantly, using an electronic application form, accessible to all carriers through a database, may be an even more efficient option for many physicians.

Accordingly, the Department is proposing to require carriers to accept the physician credentialing form contained in Exhibit 1 of the Appendix to N.J.A.C. 8:38C-1, which is substantially similar to, if not the same as, the form developed by the CAQH. The Department is also proposing to permit carriers to use a national electronic application form and database established for the purpose of collecting data from physicians that may be used in the credentialing process, in lieu of the prescribed paper form, if certain other conditions are met. Specifically, the carrier cannot require physicians to use the national electronic application form and database in order to participate in the carrier's network; the database must be secure and maintain information in a confidential manner; and the database must collect a minimum set of data.

In addition, the Department is proposing an option to permit carriers to continue using a "nonstandard" credentialing form. A carrier electing this option must, prior to distributing its own form, inform physicians of the availability of the New Jersey Universal Physician Application, which the physician may download directly from the Department's website. The physician would have the option of completing and submitting either form to the carrier for consideration, and the carrier would be obligated to accept either form for credentialing purposes.

The Department has also developed a New Jersey Physician Recredentialing Application form to satisfy the statutory requirements regarding development of an abbreviated recredentialing form that carriers must accept. In addition, the Department is proposing that carriers may elect to use a nonstandard recredentialing form, provided that the carriers also inform physicians of the availability of the online version of the New Jersey Physician Recredentialing Application form. The physician could elect which form to submit to the carrier, and the carrier would be obligated to accept either form for purposes of recredentialing. The

Department is proposing that carriers electing to utilize a nonstandard recredentialing form provide physicians with a copy of the original form prepopulated with the information that the carrier has on record for that health care provider, along with space for the health care provider to correct or update any inaccurate or missing information. Although the information set is not actually abbreviated, the amount of information required to be submitted by the health care provider should be. As with the prescribed credentialing form, carriers are also permitted to use the national electronic application and database in lieu of the recredentialing form, subject to certain conditions.

A summary of the proposed new rules follows:

N.J.A.C. 8:38C-1.1 outlines the purpose and scope of the new rules.

N.J.A.C. 8:38C-1.2 provides definitions of the terms "carrier," "credentialing," "credentials data" and "recredentialing." This section also defines the terms "New Jersey Universal Physician Application," "New Jersey Physician Recredentialing Application," "managed care plan," "physician" and "prepopulate."

Standards set forth at N.J.A.C. 8:38C-1.3 govern the use and content of the Universal Application and Renewal Forms. Subsection (a) provides for the use of a form, developed by the Department and available for downloading from the Department's website. Subsection (b) allows carriers to use another credentialing form, in lieu of the New Jersey Universal Physician Application, if the carrier satisfies certain conditions. These conditions include notifying the physician of the availability of the New Jersey Universal Physician Application and not requiring the physician to use a particular form to participate in the carrier's network. Additional language at N.J.A.C. 8:38C-1.3(c) allows carriers to utilize information obtained from a national database or repository of physician information as an alternative to the options set forth in subsections (a) and (b). Subsection (c) also establishes minimum criteria the national credentialing database must satisfy for matter such as content, cost, accessibility (electronic format and paper format) and security. Finally, N.J.A.C. 8:38C-1.3(c) also specifies the minimum health care professional credentialing information that the database must include.

N.J.A.C. 8:38C-1.4 sets forth the standards for the use of a credentialing form developed by the Department for recredentialing purposes. This section allows carriers to use another renewal of credentials form, subject to specified conditions, in lieu of the Department's New Jersey Physician Recredentialing Application form. Specifically, subsection (b) allows carriers to use another form for recredentialing only if they prepopulate the forms, provide space for corrections and updates, and provide notice to inquiring physicians that they may opt to complete the New Jersey Physician Recredentialing Application form instead. As with the credentialing form, this section also includes language allowing carriers to access a national database to obtain recredentialing data for a physician.

N.J.A.C. 8:38C-1.5 provides an option for a carrier to solicit information in addition to that required by the New Jersey Universal Physician Application, so long as the additional information is not duplicative. This section also provides that a carrier's request for primary or secondary source verification shall not be construed as duplicative information.

N.J.A.C. 8:38C-1.6 provides for the enforcement of the rules and specifies penalties for failure to act in accordance with the statute and accompanying regulations.

The Appendix to N.J.A.C. 8:38C-1 contains the form for credentialing and recredentialing required by N.J.S.A. 26:2S-7.1. The forms are set forth in two exhibits. Exhibit 1 contains the New Jersey Universal Physician Application. Exhibit 2 contains the New Jersey Universal Physician Recredentialing Application.

Pursuant to N.J.A.C. 1:30-3.3(a)5, because a 60-day comment period has been provided for this notice of proposal, this notice is excepted from the rulemaking calendar requirements.

Social Impact

The proposed new rules would have a positive social impact on doctors, carriers and other entities typically affected by the physician credentialing process. Utilizing a single, uniform credentialing document and/or an industry-wide model national electronic credentialing application and database would reduce cumbersome physician paperwork and minimize processing delays. A streamlined process would aid carriers in selecting competent physicians, encourage high standards of health care and allow carriers to retain physicians with the most desirable credentials.

Positive marketing of the uniform credentialing process could also benefit carriers. Carriers demonstrating implementation of a thorough investigation and credentialing process for the acceptance of member physicians could arguably attract more health care purchasers and consumers. Consumers benefit indirectly from any process that reduces the administrative burdens involved in credentialing because resources can be redirected to enhanced or more focused patient care.

Economic Impact

The economic impact of these proposed new rules may be mixed initially, but should be positive over the long term. Carriers already require physicians interested in participating in a network to complete forms requesting credentialing information and other criteria related to accessibility and availability. The forms used are not uniform. Use of a uniform form may require some carriers to institute systems changes, and doing so is always costly. However, the costs should not be ongoing. Most of the information being requested through the universal physician form proposed in these new rules is substantially similar to the information that most carriers already request, and thus, the systems changes may not be that significant for many carriers. The rules also allow carriers the option of continuing to use their own credentialing forms subject to certain conditions, including the requirement that the form be prepopulated when used for recredentialing purposes. For carriers exercising this option, the economic impact of the rules may well be negligible. Furthermore, those carriers that elect to access a national database may see some reduction in their administrative costs related to the credentialing process, in the long run.

The economic impact upon physicians should be positive. Physicians currently spend substantial resources on completing the various forms used by carriers for credentialing and application purposes. As often as not, the physician cannot readily reprint information from one carrier's document to the other. Clearly, the use of a uniform form will reduce the resources that a physician has to devote to the credentialing process. Those physicians that elect to utilize a national database are likely to obtain even greater reductions in their administrative costs related to the credentialing process.

Federal Standards Statement

No Federal standards analysis is required because the new rules are not being proposed under the authority of or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law,

standards or requirements. Furthermore, there are no Federal laws that regulate the subject matter of these proposed new rules.

Jobs Impact

The Department does not anticipate that the new rules will have any impact on jobs in New Jersey, including the generation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate any impact upon the agriculture industry as a result of the proposed new rules.

Regulatory Flexibility Analysis

These proposed new rules do not impose new requirements for professional services or impose any new recordkeeping or reporting requirements. These proposed new rules do establish new compliance requirements as discussed in the Summary above, and may have an impact upon one or more carriers that are resident in New Jersey, employ 100 or fewer people, and are not dominant in their industry and, thus, are "small businesses" as defined at N.J.S.A. 52:14B-16 et seq. Notwithstanding that, no regulatory flexibility has been provided for purposes of compliance with these proposed new rules. The statute requiring the implementation of these proposed new rules and their application to carriers did not specify that different standards should be used based on the size of the carriers involved. Furthermore, there is no indication that the Legislature intended that physicians should be subject to different standards of data collection based on whether they were seeking to become a part of the network or a larger or smaller carrier. Accordingly, no accommodation for carriers that may be small businesses have been made. Costs of compliance are discussed in the Economic Impact above.

Smart Growth Impact

The proposed new rules will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rules follows:

CHAPTER 38C MANAGED CARE PLANS

SUBCHAPTER 1. PHYSICIAN CREDENTIALING

8:38C-1.1 Scope and purpose

(a) This subchapter applies to all carriers offering managed care plans, and the agents that carriers may use for purposes of credentialing or recredentialing physicians on behalf of the carriers.

(b) This subchapter establishes a credentialing and recredentialing form pursuant to the authority set forth at N.J.S.A. 26:2S-7.1, to be accepted by all carriers offering managed care plans for the purpose of credentialing and recredentialing physicians who seek to participate in a carrier's provider network, including physicians employed by hospitals or other health care facilities.

(c) This subchapter establishes alternative, acceptable means by which carriers offering managed care plans may credential and recredential physicians.

8:38C-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Carrier" means an insurance company authorized to transact the business of insurance in this State and doing a health insurance business in accordance with N.J.S.A. 17B:17-1 et seq., a hospital service corporation authorized to do business pursuant to N.J.S.A. 17:48-1 et seq., a medical service corporation authorized to do business pursuant to N.J.S.A. 17:48A-1 et seq., a health service corporation authorized to do business pursuant to N.J.S.A. 17:48E-1 et seq., or a health maintenance organization authorized to transact business pursuant to N.J.S.A. 26:2J-1 et seq.

"Credentialing" means the process of collecting and validating the professional qualifications of a physician and evaluating those qualifications against a carrier's standards of qualifications for participation in the carrier's health care provider network for the carrier's managed care plans.

"Credentials data" means information, attachments, or answers to questions required by a carrier to complete the credentialing or recredentialing of a physician.

"Department" means the Department of Health and Senior Services.

"Managed care plan" means a health benefits plan (as health benefits plan is defined at N.J.S.A. 26:2S-1 et seq.), that integrates the financing and delivery of appropriate health care services to covered persons by arrangement with participating providers, who are selected to participate on the basis of explicit standards, to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan.

"New Jersey Universal Physician Application" means the form developed by the Department and set forth in the Appendix to this subchapter as Exhibit 1.

"New Jersey Physician Recredentialing Application" means the form developed by the Department and set forth in the Appendix to this subchapter as Exhibit 2.

"Physician" means a person who is licensed by the State Board of Medical Examiners in accordance with the provisions of Title 45 of the Revised Statutes.

"Prepopulate" means to pre-print requested information derived from a database on a form prior to distributing the document to the target population for review, completion and correction, as appropriate.

"Recredentialing" means the process by which a physician's information related to his or her credentials is updated and re-verified for purposes of determining whether the physician shall continue to participate in the carrier's health care provider network.

8:38C-1.3 Credentialing standards

(a) Carriers that offer managed care plans shall accept the New Jersey Universal Physician Application, as set forth in Exhibit 1 of the Appendix to this subchapter and incorporated herein by reference, for the purpose of credentialing physicians who seek to participate in the carrier's network(s).

(b) Carriers that offer managed care plans may continue to use another physician credentialing application form but shall inform physicians that a downloadable version of the

New Jersey Universal Physician Application is available through the Department's website www.state.nj.us/health or indicate where physicians may obtain a hard copy of the New Jersey Universal Physician Application.

1. When a physician makes an oral inquiry concerning a credentialing application, then a carrier's response concerning the availability of the New Jersey Universal Physician Application may be oral; however, any mailing of the carrier's credentialing application form as a follow-up to the oral request shall include a written notice referencing the availability of the New Jersey Universal Physician Application, and information on how to access the application.

2. When a physician inquires in writing concerning a credentialing application, then the carrier shall include with its credentialing application form a written notice referencing the availability of the New Jersey Universal Physician Application and information on how to access the application.

3. Carriers shall not require providers to use the carrier's credentialing form in lieu of the New Jersey Universal Physician Application in order to participate in the carrier's network(s).

(c) As an alternative to the requirements set forth in (a) or (b) above, carriers may access information about a physician from a recognized, national credentialing database, data bank or repository of health care providers subject to the following conditions:

1. Carriers shall not require providers to use a national database in lieu of one of the forms set forth in (a) or (b) in order to participate in the carrier's network(s).

2. The database shall include credentialing data commonly requested by carriers, hospitals and other health care entities and credentials verification organizations for purposes of credentialing and shall minimize the need for the collection of additional credentials data.

3. The database shall be accessible to physicians at no cost.

4. The database shall be accessible to physicians through multiple methods including electronic and paper formats.

5. The database shall incorporate adequate security features to ensure that credentials data submitted by physicians and provided for review shall remain confidential, as provided by law, and shall not be released without the written consent of the physician.

i. An electronic signature or other similar alternative that acknowledges the physician's consent to the release of credentials data shall satisfy the written consent requirement.

6. The database shall, at a minimum, collect the following physician credentialing information:

- i. Education and degrees;
- ii. Specialty, if applicable;
- iii. Board certification status;
- iv. Hospital affiliations;
- v. Office hours;
- vi. Whether accepting new patients;
- vii. Liability insurance coverage;
- viii. Languages spoken;
- ix. Professional references; and
- x. State and Federal license and/or registration number.

7. The database shall require physicians to provide all information concerning any license actions, sanctions or restrictions; professional sanctions from any source; felony conviction(s) and malpractice claim history from settled or closed case(s).

8. The database shall require the physician to attest to the completeness and accuracy of the information provided.

9. The database shall require primary and secondary source verification for all licenses, board certifications, registrations and insurance.

10. Nothing set forth in this subsection shall preclude a carrier from consulting a national database to verify data submitted in accordance with subsection (a) or (b).

8:38C-1.4 Recredentialing standards

(a) Carriers that offer managed care plans shall accept the New Jersey Physician Recredentialing Application, as set forth in Exhibit 2 of the Appendix to this subchapter and incorporated herein by reference, for the purposes of recredentialing physicians who seek to continue to participate in the carrier's network(s).

(b) A carrier that offers managed care plans may continue to use another physician recredentialing application form for renewal of credentialing if the carrier prepopulates the form with the individual information of each physician to whom the form is sent.

1. Carriers electing to use a prepopulated recredentialing application shall inform physicians of the availability of the New Jersey Physician Recredentialing Application, downloadable through the Department's website www.state.nj.us/health or indicate where physicians may obtain a hard copy of the New Jersey Physician Recredentialing Application.

i. When a physician makes an oral inquiry concerning a recredentialing application, then the carrier's response concerning the availability of the New Jersey Physician Recredentialing Application may be oral; however, any mailing of the carrier's recredentialing application form as a follow-up to the oral request shall include a written notice referencing the availability of the New Jersey Physician Recredentialing Application, and information on how to access the application.

ii. When a physician inquires in writing concerning a recredentialing application, then the carrier shall include with its recredentialing application form a written notice referencing the availability of the New Jersey Physician Recredentialing Application, and information on how to access the application.

2. Carriers electing to use a prepopulated recredentialing application form shall modify the form as necessary to provide physicians with space on the form to correct, add or update any incorrect or missing information.

3. Carriers shall not require a physician to use the carrier's recredentialing form in lieu of the New Jersey Universal Physician Recredentialing Application in order to continue to participate in the carrier's network(s).

(c) Carriers may send the prepopulated form electronically or in paper format, and shall be capable of accepting any revisions to the prepopulated form in the same format in which it was distributed; however, a carrier shall not require that a physician be capable of accepting the prepopulated form electronically, nor shall the carrier require that revisions to the prepopulated form be submitted electronically by a physician.

(d) As an alternative to using the recredentialing form set forth in (a) above or a prepopulated form as set forth in (b) above, carriers may utilize update and recredentialing

information obtained from a national credentialing database, data bank or repository of health care providers.

1. The election by the carrier to use a national credentialing database, data bank or other repository of health care providers shall be subject to the conditions set forth at N.J.A.C. 8:38C-1.3(c).

8:38C-1.5 Right to request additional information

(a) Use or acceptance by a carrier of the New Jersey Universal Physician Application form, the New Jersey Physician Recredentialing form or the election by the carrier to obtain information from a national credentialing database, data bank or repository of health care providers shall not be construed to restrict the right of a carrier to request additional information necessary for credentialing or recredentialing.

1. Notwithstanding (a) above, a carrier shall not request information that duplicates information already requested on the New Jersey Universal Physician Application form, or as part of the national credentialing database, data bank or repository of health care providers.

2. A request by a carrier or other qualified entity for primary or secondary source verification shall not be considered a request for duplicative information, or otherwise prohibited.

8:38C-1.6 Enforcement

(a) The Department is authorized to impose the following remedies to enforce the provisions of these rules.

1. Imposition of a monetary penalty for each violation in an amount determined by the Commissioner in accordance with N.J.S.A. 26:2S-16; and/or

2. Other remedies for violations of statutes, as provided by State and Federal law.